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TAGS: [PREL](#) [PGOV](#) [KDEM](#) [PHUM](#) [PINR](#) [EAID](#) [RS](#)
SUBJECT: FOREIGN ORGANIZATIONS SEEK COVER AS GOR DITHERS ON
PROCEDURES TO EXEMPT GRANTS FROM TAXES

REF: A. MOSCOW 1901
[1](#)B. MOSCOW 3179

Classified By: DCM Eric Rubin; reason 1.4 (b) and (d)

[1](#)1. (C) Summary: Despite the looming January 1, 2009 deadline for the possible end of a tax exemption for recipients of some grants from foreign non-commercial organizations, the GOR has yet to come up with the criteria and procedures for such donors to apply for inclusion on the list of foreign organizations whose grants will be tax-exempt in the future. In a bizarre twist, a Russian NGO tasked with following developments on this issue informed us that squabbling amongst the ministries had ensued, and that a GOR representative had suggested that foreign institutions send letters to the Office of the Premier to support the Ministry of Finance's position in this internal argument. U.S.-based organizations that were included on the previous list have begun to take measures to protect their activities pending action by the GOR to implement Putin's June 28 decree. End Summary.

[1](#)2. (SBU) The GOR intra-agency has yet to agree on the criteria and procedures for foreign donors who wish for their grants to Russian institutions to be considered tax-exempt. This is despite a specific decree by Premier Vladimir Putin in June annulling, effective January 1, 2009, the tax-free status for grants issued by most non-commercial organizations and charging the Ministry of Finance to come up with new criteria and procedures by October 1 (Ref A). The Ministry of Finance has missed its deadline and appears to be deadlocked with other ministries over the criteria and procedures. The main sticking point seems to be who has the ultimate authority and -- perhaps more important in today's Russia -- the possible blame for deciding whose grants are tax-free. The Ministry of Finance has implied that the individual ministries should be on the hook for the activities of the foreign organizations they sponsor. Another possible bone of contention is any continued role for the much-maligned inter-ministerial Commission on International Humanitarian and Technical Assistance (CIHTA), whose mandate more than one of our interlocutors has told us the GOR is in the process of terminating (Ref B).

Little Interest in Ratting Out the Ministry of Finance

[1](#)3. (C) The International Center for Non-Profit Law, a USAID implementing partner that has closely monitored developments of the new criteria and procedures, informed us December 2 that a representative "from the Russian Government" had suggested that foreign donor organizations commence a letter writing campaign pointing out that the Ministry of Finance has failed to come up with a new regime and how this has made their work in Russia more difficult. According to this official, behind the scenes Ministry of Finance officials are resisting the role foisted upon them under the decree to take primary responsibility for establishing the new list of grant

making foreign donors, including coordinating applications submitted by line ministries with the Ministry of Justice and security services. To date, none of the members of the Donor's Forum have expressed any willingness to join such a letter writing campaign and increase their visibility with the GOR.

¶4. (C) U.S.-based foundations and donor organizations have taken a multi-pronged approach to dealing with the uncertainty of the tax-status of their grants come January 1, 2009. Those who work primarily through the Ministry of Education and Science (MES) have re-applied or are planning to apply for inclusion on the list using draft criteria and procedures distributed by the Ministry of Finance to other agencies for their comment on October 6. The head of the MacArthur Foundation told the Ambassador December 8 that the MES had already forwarded MacArthur's application to the Ministry of Finance, where it currently sits. Other well-known U.S. foundations in the same predicament include the U.S. Civilian Research and Development Foundation (CRDF), Project Harmony, IREX and ACTR. The last three have told USAID that they have submitted applications to the Ministry of Education and have been assured that their applications were forwarded to Ministry of Finance. The U.S. National Institutes of Health is preparing its application to MES. Several organizations that work through the Ministry of Health (MOH), including the Swiss-based Global Fund for the Fight Against AIDS, Tuberculosis and Malaria, to which Russia is itself a donor nation, complained to us that there is less clarity from the MOH on the status of their applications. The Deputy Head of MOH's International Department told us that the Global Fund had not sent its application to the right people. But he was working to set it on the right track and was optimistic it would be approved. Ironically as a donor to the Global Fund, Russia could be seen as taxing its own assistance, although it is probably a net-recipient of Global Fund grants.

¶5. (C) Some organizations, such as the MacArthur Foundation and IREX, are also hedging any possible exposure by advancing some grant payments that were scheduled for 2009 to before the end of 2008. MacArthur has a USD 11 million per year program in Russia, primarily focused on higher education, but also supporting independent think tanks, human rights/rule of law programs and cases brought by Russian citizens against their own government at the European Court of Human Rights in Strasbourg. Unfortunately, not all of the grant-giving institutions that might be affected by this decree have this flexibility, especially those through which USG funds are passed to Russian recipients.

¶6. (C) Several institutions that appeared on the current list valid until January 1, 2009 have researched applicable bilateral agreements with the GOR and determined that any grants they give have tax-free status pursuant to the terms of these agreements. Included in this group are programs funded through the Department of Energy and the Defense Threat Reduction Office in Moscow.

¶7. (C) IREX and others that are preparing alternative tax-prevention strategies in the event they are not included on the new list are also considering characterizing their current grants as donations, a tactic that many other NGOs not on the list have been adopting over the past year. Russian legal parameters as to what constitutes a "donation" are thin at best and many NGOs using this approach are concerned that these "donation agreements" may be rejected upon scrutiny by GOR tax authorities.

Comment

¶8. (C) Over the last four years, the GOR has increased its oversight of NGO's, multiplying the levers at its disposal to bring pressure to bear on civil society organizations - particularly those focused on human rights and political opposition. From the UK "spy rock" scandal to the allegations by Kremlin-friendly youth groups that NGO's

receiving foreign funding are traitorous, and particularly since the Orange Revolution, foreign financed NGOs have been depicted as a "fifth column." While ministerial jockeying could account for the confusion over the criteria, the policy intent seems clear: to reduce foreign funding and to diminish the appetite of foreign donors faced with up to 42 percent of their grant being lost to taxes. Moreover, the perception of forthcoming tax changes may have a "chilling effect" on foreign NGOs' willingness to work in Russia. The Ambassador has raised this issue with DPM Shuvalov, Minister of Finance Kudrin and DFM Ryabkov, and will continue to push for clarity and an environment more receptive to NGO activities.

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